

# Notice of Allowability

Application No.

10/730,272

Examiner

Celia Chang

Applicant(s)

CHAN CHUN KONG ET AL.

Art Unit

1625

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/14/07 after final amendment and examiner's amendment.
2. ☒ The allowed claim(s) is/are 25,26,38,60,64,67-72,74-97,102,103 and 105-107.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Celia Chang  
Primary Examiner  
Art Unit 1625

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### DETAILED ACTION

1. Amendment and response filed by applicants dated September 14, 2007 have been considered carefully.

Claims 1-24, 27-37, 39-40, 42-59, 61-63, 65-66, 73, 98-101 have been canceled.

Claims 25-26, 38, 41, 60, 64, 67-72, 74-97 and 102-103 and newly added claims 104-107 are pending.

2. *Restriction*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 25-26, 38, 60, 64, 67-72, 74-97, 102-103, 105-107 drawn to compounds, composition and method of treating HCV using single active compound of claim 60, classified in class 549, subclass 60+.
- II. Claims 41, 104, drawn to method of treating HCV using combination active ingredients, classified in class 514, subclass various, depending on species election.

The inventions are independent or distinct, each from the other because:

The process of treating HCV with a single active ingredient depends sole on the biological activity of the active compound is patentably independent and distinct from a method of treating HCV using combination of multiple active ingredients. The site of administration, sequence of administration or the dosage of the single active ingredient method is independent and distinct from a multiple active ingredient method because drug interactive and pharmacokinetics of multiple ingredients must be considered in the steps of operation (see Vicari et al. CA 2007:977620 or Sostegni et al CA 129:285628). Therefore, separate search and examination must be conducted.

During a telephone conversation with Mr. Heaney on Sept. 20, 2007 a provisional election was made without traverse to prosecute the invention of group I, claims 25-26, 38, 60, 64, 67-72, 74-97, 102-103, 105-107. Affirmation of this election must be made by applicant in replying to this Office action. Claims 41 and 104 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

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3. *Examiner's Amendment*

Authorization for this examiner's amendment was given in a telephone interview with Mr. Heaney on Sept. 20, 2007.

Claims 41 and 104 have been canceled without prejudice of applicants' filing of divisional application.

4. *Reason for Allowance*

The following is an examiner's statement of reasons for allowance:

Applicants have limited the claims to the allowable compounds and canceled the multiple active ingredient method claims. Claims 25-26, 38, 60, 64, 67-72, 74-97, 102-103, 105-107 are allowed.

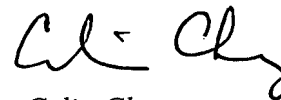
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celia Chang, Ph. D. whose telephone number is 571-272-0679. The examiner can normally be reached on Monday through Thursday from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet L. Andres, Ph. D., can be reached on 571-272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OACS/Chang  
Sept. 25, 2007

  
Celia Chang  
Primary Examiner  
Art Unit 1625